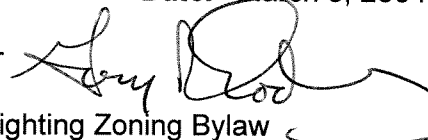


TOWN OF ACTON

Building Department

INTERDEPARTMENTAL COMMUNICATION

BOS 3/8/04
W/WARRANT DISCUSSION

To: Don P. Johnson, Town Manager **Date:** March 3, 2004
From: Garry A. Rhodes, Building Commissioner 
Subject: Outdoor Lighting Town Bylaw/ Outdoor Lighting Zoning Bylaw

You have requested I provide comments on the affect on the Building Department to enforce both Outdoor Lighting Bylaws. Both bylaws as well as a multitude of other zoning changes are being proposed on the back of a decrease in enforcement personnel within the Building Department. There is no way to exactly quantify the amount of work involved except to say it greatly exceeds the current resources of the Department even before proposed cuts. At a minimum, I would propose an increase of 20 hours/wk. over current staffing levels to effectively enforce these proposed changes.

The difficulty in quantifying the amount of time needed to enforce each bylaw is because enforcement is triggered differently in both cases and will increase over time. It has been suggested the enforcement of the Town Bylaw on hours of operation be complaint driven. It is impossible to determine how many complaints would be filed. OLAC may have an estimate of how many complaints we may receive including complaints they may lodge. Based on my experience, once I notify a business about their exterior lighting violation or any violation they usually point to their neighbors and ask why I don't include them. Selective enforcement does not work. In my opinion, before the Building Department starts enforcement, an inventory of existing lighting must be made. The importance of an inventory cannot be over emphasized. The majority of lighting complaints I receive are exterior lights installed by N-Star. N-Star's exterior lighting are not metered therefore a wiring permit is not necessary. Without an inventory it would be impossible to know when new lighting is installed. Documentation of a violation would have to be at night after 11:00 PM. Enforcement resources would have to be diverted to working nights to document the violation.

The outdoor lighting zoning bylaw would be enforced somewhat differently, at least initially. The proposed bylaw would be reviewed under the Site Plan Special Permit. A certification of compliance would be required before the final. That is not the end of the process, hours of operation will require monitoring as well as any changes. If a business is not satisfied with their lighting they usually contact N-Star to add lighting or just add it on their own without our knowledge. If a business is in violation and cited, the owner would contact our office and meet with us to review options for compliance much like what we do with sign enforcement. The lighting bylaw is very similar to the sign bylaw. Our department currently has a dedicated person (scheduled to be a budget cut) just to license and monitor signage.

I anticipate resistance from Acton businesses, large and small, who may have invested substantially in their lighting. To cite the business for a violation and have them correct it may require legal action. If I am unable to correct the problem at my level the Town must be willing to pursue legal action for the bylaw to be effective. It has been my experience voluntary compliance

with town regulations does not always happen. As in the Kennedy, Wagner, Bonica, and Sanford cases compliance or negotiated compliance comes at a large legal cost.

The reality of the impact to the Department without increasing hours is that the enforcement of new regulations will reduce the amount of time enforcing current regulations. The result being, enforcement overall will be prioritized based on public safety and written complaints. We currently do this now within the department however I believe it will be quite noticeable with the reduction in staff and the adding of new regulations. Complaints and or enforcement may take longer to respond to or act upon at all. Enforcement of some complaints may get done but to a lesser degree. The Building Department will however adjust to whatever is decided and will continue to serve the community to the best of our resources.

3/8/12

Selectmen's Minutes December 15, 2003

Present: Walter Foster, Peter Ashton, William Shupert, Robert Johnson, F. Dore' Hunter, Town Manager and his Assistant.

CITIZEN'S CONCERNS

MARY MICHALEMAN – Mary announced that the Stream Team was awarded the grant from the State for the signage project.

PETER ASHTON - Announced that he will seek re-election this year. He finds the job rewarding and wants to stay involved in the committee's that he has been working with.

WALTER FOSTER - Announced he has decided to run again also.

PUBLIC HEARINGS & APPOINTMENTS

GRAHAM KNOWLAND- NOISE COMPLAINT, BROOKSIDE MALL – Walter discussed the various steps that the Building Commissioner has taken to respond to Mr. Knowland's complaints. We have received two letters from Brookside and BFI which will outline what they are going to do to comply, even though they feel they are within their rights. The one way sign will be reinstalled by the management of Brookside. Walter wanted to be sure that the signs were up within 24 hours.

Trey noted he went out Tuesday at 6:00 a.m. and saw no dumpster activity.

Mr. Knowland wanted to correct that it wasn't just the BFI and other trucks, it is the safety on Esterbrook Road. He noted the service road was dangerous and how it is being used, not just BFI but other delivery trucks too.

Walter said that the issues he raised Mr. Knowland could go before the Board of Appeals as his avenue to change the situation. He was asked to log potential activity with the Police.

Bill Kingman asked about who to notify if they wanted to let some one know about the violations. He noted that he had observed that the sign was in place.

Dore' noted that the police have four people on each shift. They will not be on anyone's street all day. He urged that they notify the police themselves to report this violation.

Garry noted that we have no control over signage on private property.

SITE PLAN SPECIAL PERMIT #01/06/99-368, POWDER MILL ROAD, –
Mark Donohue spoke about the engineered building planned for this site. Structural engineers have reviewed this location and feel that it can be built in a safe manner.

Dore' wanted to speak about sidewalks. He said that he would leave it to the Board whether they want more sidewalk installed or a gift in lieu.

Dore' wanted to talk about the storm drains. Dore' would recommend as a condition have Building Commissioner require an annual inspection for 3 years, notice would be to observe the storm sceptors.

Peter wanted to require side walks along the entire frontage of the property. He wanted to require them. Trey too wanted sidewalks as well as Walter.

Mr. Bertolami said that he would rather donate to a charitable organization, DORE' HUNTER - Moved to take under advisement. PETER ASHTON, second. UNANIMOUS VOTE.

CLASSIFICATION HEARING – The Board can't vote at this time as we have not received the documents from the State in order to make the decision. –TREY SHUPERT – Moved to continue the hearing to February 23, 2004 at 7:15. - BOB JOHNSON – Second. They want to issue the bills on Dec 31st. Also the resolution from the School side was discussed. TREY SHUPERT - Moved to sign the extension request letters to DOR. BOB JOHNSON – Second. UNAIMOUS VOTE

DORE' HUNTER - Move we execute the resolution document he will draw lines thru text that appears on the fax that are not part of the Boards Resolution. PETER ASHTON – Second. UNAIMOUS VOTE

BOARD OF HEALTH COMMITTEE APPOINTMENT – PAM HARTING-BARRAT- TREY SHUPERT – Moved to appoint Pam as an Associate member of the Board of Health with a term to expire 6/30/04. DORE' HUNTER – second UNAIMOUS VOTE.

CPA COMMITTEE APPOINTMENT – MATT LUNDBERG – DORE' HUNTER – Moved to appoint Mr. Lundberg as an Associate member of the CPC term to expire 6/30/04. PETER ASHTON – Second. UNANIMOUS VOTE

BOARD OF HEALTH COMMITTEE APPOINTMENT – JOANNE BISSETTA – DORE' HUNTER – Moved to appoint Joanne Bissetta as an Associate of the Board of Health. ROBERT JOHNSON – Second. UNANIMOUS VOTE

FY05 BUDGET PRESENTATION –Don gave an overview of the budget. Dore' said we need to give Finance Staff a thank you. Walter thanked staff for their efforts in putting these books together. The Board will meet on Jan 10 for its budget meeting.

SELECTMEN'S BUSINESS

TEMPORARY APPOINTMENT – CPC, ACTON HOUSING AUTHORITY – The Board discussed the letter received from AHA regarding Mr. Nagles request to be temporally replaced until he can again serve. The Board noted that we cannot have temporary committee members and suggested that Joe resign and Erin to replace him. When he gets better he can reapply to be a full member again. WALTER FOSTER – Moved to

appoint Erin Bettez as the AHA Rep. to CPC pending Joe Nagles resignation. DORE' HUNTER- Second. UNANIMOUS VOTE.

STREET LIGHT REQUEST, SLYVIA STREET – Don said that we have put modest amount in the budget.

TREY SHUPERT Moved to install the two fixtures contingent upon adequate funding for both fixtures. DORE' HUNTER – Second. UNANIMOUS VOTE

2004 ANNUAL LICENSE REVEWALS – DORE' HUNTER Moved to approve the licenses included on the memo dated 12/15/03 provided that all taxes are paid. TREY SHUPERT – Second. UNANIMOUS VOTE

JAMES KOTANCHIK, DISCLOSURE STATEMENT – DORE' HUNTER Moved to accept the disclosure statement as submitted from Mr. Kotanchik, and that he continue to serve as he has on the Board of Assessors. PETER ASHTON- Second UNANIMOUS VOTE

OTHER BUSINESS

Peter noted that the State is requiring us to enforce the noise bylaw. He noted it would require staff and equipment. He feels we should not go ahead at this time.

First Night of Annual Town Meeting. The Board discussed the conflict with Passover and the Board will open and continue the ATM until the next night, April 6, 2003. Peter noted that this date is determined by the Town Charter. Dore' felt that if we open and close the meeting we legally did meet requirements of the Charter.

CONSENT AGENDA

PETER ASHTON – Moved to Approve. TREY SHUPERT – Second. UNANIMOUS VOTE.

Minutes November 3, 2003, TREY SHUPERT - Moved to amend the November 3 minutes to read: TREY SHUPERT Moved that we amend the November 3 minutes to read: TREY SHUPERT – Moved to include ARRT, in the full amount, to the CPC for consideration. DORE' HUNTER – Second UNANIMOUS VOTE.

TREY SHUPERT- Moved to make a request for full funding \$248,000 to be paid over a two year period. PETER ASHTON – second. UNANIMOUS VOTE
DORE' HUNTER – Moved we approve the minutes as amended. PETER ASHTON- second. UNANIMOUS

TOWN MANAGER'S REPORT

The Board voted to close the Annual Town Meeting Warrant at noon time, on December 31, 2003.

EXECUTIVE SESSION

DORE' HUNTER – Moved go in Executive Session regarding LITAGATION. ROLL CALL taken, All Ayes

Christine Joyce
Recording Clerk

Clerk

Date